

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MEMSMART SEMICONDUCTOR CORP.

Plaintiff,

v.

APPLE INC.,

Defendant.

CIVIL ACTION NO. 2:13-cv-518

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MemSmart Semiconductor Corp. (“MemSmart” or “Plaintiff”) for its Complaint against Apple Inc. (“Apple” or “Defendant”), demands a trial by jury and alleges as follows:

PARTIES

1. Plaintiff MemSmart Semiconductor Corp. is a Taiwanese corporation with a principal address of Room 301, Innovation Center, No. 101, Sec. 2, Kuang-Fu Rd., Hsinchu 30013, Taiwan R.O.C.

2. On information and belief, Defendant Apple Inc. is incorporated under the laws of California with its principal place of business at 1 Infinite Loop, Cupertino, CA 95014. This Defendant is registered to do business in Texas and has appointed CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201 as its agent for service of process. Apple Inc. regularly conducts and transacts business in Texas, throughout the United States, and within the Eastern District of Texas, itself and/or through one or more subsidiaries, affiliates, business divisions, or business units.

JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, namely, 35 U.S.C. §§ 1 et seq. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2) and (c) and/or 1400(b). On information and belief, Apple has transacted business in this district, and has committed acts of patent infringement in this district, by the making, using, selling and/or offering for sale infringing products including but not limited to the Apple iPhone 4.

5. On information and belief, Apple is subject to this Court's general and specific personal jurisdiction because: Apple has minimum contacts within the State of Texas and the Eastern District of Texas and, pursuant to due process and/or the Texas Long Arm Statute, Apple has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Apple regularly conducts and solicits business within the State of Texas and within the Eastern District of Texas; and causes of action arise directly from Apple's business contacts and other activities in the State of Texas and in the Eastern District of Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,829,364

6. MemSmart Semiconductor Corp. is the owner of all rights, title and interest to United States Patent No. 7,829,364 ("the '364 Patent") entitled "Method Of Fabricating A Suspension Microstructure." The '364 Patent was issued on November 9, 2010 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '364 Patent was filed on October 2, 2008. Attached as Exhibit "A" is a copy of the '364 Patent.

7. The '364 Patent is a method for fabricating a micro-electro-mechanical structure and more particularly to a suspension microstructure and its fabrication method which effectively avoids improper corrosion and exposure, and reduces cost.

8. On information and belief, Apple has been and now is infringing the '364 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices that have a suspension microstructure that incorporate methods according to the '364 Patent. On information and belief, examples of Apple products that infringe the '364 Patent include, but are not limited to, all Apple products that have a suspension microstructure, including the Apple iPhone 4. Apple is thus liable for infringement of the '364 Patent pursuant to 35 U.S.C. § 271.

9. As a result of Apple's infringement of the '364 Patent, MemSmart Semiconductor Corp. has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Apple's infringing activities are enjoined by this Court.

10. Unless a permanent injunction is issued enjoining Apple and its agent, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '364 Patent, MemSmart Semiconductor Corp. will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, MemSmart Semiconductor Corp. respectfully requests that this Court enter:

A. A judgment in favor of MemSmart Semiconductor Corp. that Apple has infringed the '364 Patent;

B. A permanent injunction enjoining Apple and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '364 Patent;

C. A judgment and order requiring Apple to pay MemSmart Semiconductor Corp. its damages, costs, expenses, and prejudgment and post-judgment interest for Apple infringement of the '364 Patent as provided under 35 U.S.C. § 284;

D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to MemSmart Semiconductor Corp. its reasonable attorneys' fees; and

E. Any and all other relief to which MemSmart Semiconductor Corp. may show itself to be entitled.

DEMAND FOR JURY TRIAL

MemSmart, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

Dated: June 21, 2013

By: /s/ Winston O. Huff
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**ATTORNEYS FOR PLAINTIFF,
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CORP.**

CERTIFICATE OF FILING

I hereby certify that on June 21, 2013 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

/s/ Winston O. Huff
Winston O. Huff